

Docket No. 202,849

Respondent appeals from a Preliminary Hearing Order entered by Administrative Law Judge Shannon S. Krysl on October 5, 1995.

Respondent lists the following issues:

- (1) The Administrative Law Judge exceeded her jurisdiction by ordering the payment of unauthorized medical expenses in excess of five hundred dollars (\$500.00); and
- (2) The Administrative Law Judge exceeded her jurisdiction in ordering the payment of medical expenses that pre-dated the filing of the Application for Preliminary Hearing.

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that the arguments advanced by the respondent in this appeal do not raise issues this Appeals Board has jurisdiction to review. The Order of the Administrative Law Judge will, therefore, remain in effect as originally entered.

In an appeal from a preliminary order the Appeals Board has jurisdiction to review findings relating to any of the issues listed in K.S.A. 44-534a, and findings relating to other arguments which alleged that the Administrative Law Judge has exceeded his or her jurisdiction K.S.A. 44-551. Respondent does not raise an issue listed in K.S.A. 44-534a, but does attempt to cast its arguments as allegations that the Administrative Law Judge has exceeded her jurisdiction. The Appeals Board finds, nonetheless, that the arguments are not, in substance, arguments that the Administrative Law Judge has exceeded her jurisdiction. The arguments, as stated, amount to arguments that the Administrative Law Judge erred in exercise of her discretion on a non-jurisdictional issue.

The argument that the Administrative Law Judge exceeded her authority by ordering respondent to pay in excess of five hundred dollars (\$500.00) in unauthorized medical expense relates, in fact, to the decision by the Administrative Law Judge certain expenses claimant incurred for medical treatment should be treated as authorized medical expenses even though claimant did not at that time have that authorization. This is a decision the Administrative Law Judge has the authority to make and does not relate to a jurisdictional issue. An error in that decision would not give the Appeals Board jurisdiction at this point in the proceedings.

Respondent's second argument challenges the order for payment of expenses incurred prior to the date of the Application of Preliminary Hearing. This decision is, again, one which the Administrative Law Judge has discretion and authority to make. Accordingly, the Appeals Board does not have jurisdiction to review that decision in this appeal from preliminary order. K.A.R. 51-3-5a.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review shall be dismissed and the Preliminary Hearing Order by Administrative Law Judge Shannon S. Krysl, dated October 5, 1995, remains in effect as originally entered.

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Bradley A. Pistotnik, Wichita, Kansas
Ronald J. Laskowski, Topeka, Kansas
Shannon S. Krysl, Administrative Law Judge
Philip S. Harness, Director